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11 Attorneys for Plaintiff
 12 United States of America

13 UNITED STATES DISTRICT COURT

14 SOUTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 ONE 1999 KENWORTH W900 TRACTOR,
 19 CA LICENSE NO. 9D53724,
 20 VIN 1XKWDB9X5XJ825034,
 21 ITS TOOLS AND APPURTENANCES,

22 ONE 1994 WABASH NATIONAL
 23 RCA-102-15 TRAILER,
 24 AZ LICENSE NO. L87023,
 25 VIN 1JJV482S8RL206936,
 26 ITS TOOLS AND APPURTENANCES,

27 Defendants.

Civil No.

COMPLAINT FOR
 FORFEITURE

'08 CV 1133 JM WMc

28 By way of complaint against the defendants ONE 1999 KENWORTH
 29 W900 TRACTOR, CA LICENSE 9D53724, VIN 1XKWDB9X5XJ825034, ITS TOOLS
 30 AND APPURTENANCES, and ONE 1994 WABASH NATIONAL RCA-102-15
 31 TRAILER, AZ LICENSE NO. L87023, VIN 1JJV482S8RL206936, ITS TOOLS
 32 AND APPURTENANCES, the United States of America alleges:

33 1. This Court has jurisdiction over this action by virtue
 34 of the provisions of Title 28, United States Code, Section 1355,
 35 because the acts and omissions giving rise to the instant
 36 forfeiture occurred in this district.

1 2. Venue is proper in this district pursuant to Title 28,
2 United States Code, Section 1395 because the defendants were found
3 in this district.

4 3. On February 19, 2008, Raul Gutierrez-Villalobos
5 (hereinafter referred to as "Gutierrez-Villalobos") arrived at the
6 permanent United States Border Patrol (hereinafter referred to as
7 "USBP") Highway 111 checkpoint near Niland in the Southern
8 District of California. He was the driver and sole occupant of
9 the defendant 1999 Kenworth W900 tractor (hereinafter referred to
10 as "defendant 1999 Kenworth tractor"), pulling the defendant
11 1994 Wabash National RCA-102-15 trailer (hereinafter referred to
12 as "defendant trailer"). Gutierrez-Villalobos was greeted by USBP
13 Agent Zepeda, wearing his USBP uniform. Gutierrez-Villalobos
14 declared he was as a citizen of Mexico.

15 A. Agent Zepeda asked Gutierrez-Villalobos about the
16 type of cargo contained in the enclosed defendant trailer.
17 Gutierrez-Villalobos advised he was transporting candles, and
18 confirmed the defendant trailer was secured with a Customs seal.
19 Agent Zepeda asked to examine the transportation documents for the
20 merchandise. Gutierrez-Villalobos, was unable to produce any such
21 documentation. Agent Zepeda directed Gutierrez-Villalobos to
22 drive the defendants 1999 Kenworth tractor and trailer off the
23 roadbed, and into the nearby secondary inspection area for a more
24 thorough evaluation.

25 B. In the secondary inspection area, Gutierrez-
26 Villalobos granted permission for Agent Zepeda to use his USBP
27 service canine to search the defendant trailer. Agent Zepeda and
28 his service canine are a certified USBP drug detection team. The

1 drug-detecting canine alerted to the rear of the closed defendant
2 trailer, as well as to the front left corner near the
3 refrigeration unit. Agent Zepeda recognized the behavior of his
4 canine partner as indicating it detected the scent of illegal
5 drugs being emitted from the defendant trailer.

6 C. Agent Zepeda inspected the closed rear doors of the
7 defendant trailer and noted they were secured with a United States
8 Customs and Border Protection (hereinafter referred to as "CBP")
9 bolt seal. Agent Zepeda removed the CBP seal, opened the rear
10 doors, and examined the interior of the defendant trailer.

11 D. Inside the trailer, Agent Zepeda discovered 332
12 bundles. Each was wrapped in brown packaging tape, cellophane,
13 and grease. No other items or cargo were present inside the
14 trailer. Agent Zepeda selected a package at random. He cut
15 through the layers of protective covering, and extracted a morsel
16 of its green vegetable contents. Agent Zepeda performed a
17 presumptive field chemical test on the sample. The test results
18 confirmed the sample bundle contained marijuana, a Schedule I
19 Controlled Substance.

20 E. The 332 bundles were examined by agents of the Drug
21 Enforcement Administration (hereinafter "DEA"). Later, the
22 contents of the bundles was evaluated by a DEA forensic chemist.
23 The bundles contained marijuana, and had a combined weight of
24 4,019.9 pounds.

25 F. On March 19, 2008, a federal grand jury in the
26 Southern District of California handed down a single-count
27 indictment charging Gutierrez-Villalobos with possession with
28 intent to distribute 1,000 kilograms and more, to wit: 1,823.43

1 kilograms (4,019.9 pounds) of marijuana, a Schedule I Controlled
2 Substance, in violation of Title 21, United States Code, Section
3 841(a)(1).

4 4. The defendants 1999 Kenworth W900 tractor and 1994
5 Wabash National RCA-102-15 trailer were used, were being used, or
6 were intended to be used to facilitate a violation of Chapter 13,
7 Title 21, United States Code.

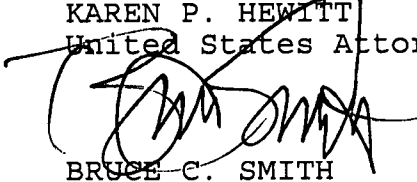
8 5. As a result of the foregoing, the defendants 1999
9 Kenworth W900 tractor and 1994 Wabash National RCA-102-15 trailer
10 are liable to condemnation and to forfeiture to the United States
11 for their use in accordance with Title 21, United States Code,
12 Section 881(a)(4).

13 6. The defendants 1999 Kenworth W900 tractor and 1994
14 Wabash National RCA-102-15 trailer are presently stored within the
15 jurisdiction of this Court.

16 WHEREFORE, the United States prays that due process issue to
17 enforce the forfeiture of the defendants 1999 Kenworth W900
18 tractor and 1994 Wabash National RCA-102-15 trailer, and that due
19 notice be given to all interested parties to appear and show cause
20 why said forfeiture should not be declared.

21 DATED: June 25, 2008

22 KAREN P. HEWITT
23 United States Attorney

24 
25 BRUCE C. SMITH
26 Assistant U.S. Attorney
27 E-mail: bruce.smith@usdoj.gov
28

VERIFICATION

I, Randy Hester, state and declare as follows:

1. I am a Special Agent with the Drug Enforcement Administration and am assigned to the Asset Removal Group. As such, I am responsible for coordinating phases of the investigation which is the basis for this litigation.

2. I have read the foregoing complaint and know its contents.

3. The information in the complaint was revealed during the investigation in which I was engaged, or was furnished by official Government sources.

Based on this information, I believe the allegations in the complaint to be true.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Executed on May 28, 2008


RANDY HESTER, S/A
DRUG ENFORCEMENT ADMINISTRATION

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

AUSA Bruce C. Smith, Tel. (619) 557-6963, 880 Front Street,
Room 6293, San Diego, CA 92101-8893

DEFENDANTS

One 1999 KENWORTH W9004 TRACTOR, et al.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED, BY _____, DEPUTY

Attorneys (If Known)

Vance B. McAlister, Esq., 636 State Street, El Centro,
CA 92243, Tel. (760) 352-6371

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
Title 21, United States Code, Section 881(a)(4)

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/25/2008

SIGNATURE OF ATTORNEY OF RECORD

AUSA BRUCE C. SMITH

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

ck